STAFF REPORT
ACTION REQUIRED

Appeal of the denial of a boulevard café permit application located 1430 Dundas Street West on the commercial frontage and Gladstone Avenue flankage.

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<th>Date:</th>
<th>February 4, 2016</th>
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<td>To:</td>
<td>Toronto and East York Community Council</td>
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<td>From:</td>
<td>Annalisa Mignardi, Director, Business Licensing &amp; Regulatory Standards</td>
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<td>Wards:</td>
<td>Ward 18 – Davenport</td>
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SUMMARY

This staff report is about a matter for which the Toronto and East York Community Council has delegated authority from City Council to make a final decision.

To report on the appeal received from the business owner representing 2452864 Ontario Inc., operating as Loveless for the refusal to issue a permit by Municipal Licensing & Standards, in the matter of an application for a boulevard café permit located at 1430 Dundas Street West.

RECOMMENDATIONS

Municipal Licensing and Standards recommends that the Toronto and East York Community Council:

1. Deny the application for the proposed boulevard café application at 1430 Dundas Street West on the commercial frontage and Gladstone Avenue flankage based on the application not meeting the requirements as stated in Chapter 313.

FINANCIAL IMPACT

There are no financial implications resulting from the adoption of this report.

DECISION HISTORY

An application for a boulevard café located at 1430 Dundas Street West on the commercial frontage and Gladstone Avenue flankage, was received on October 20, 2015 from the business owner representing 2452864 Ontario Inc., operating as Loveless.
The application submitted was seeking permission to establish a boulevard café on the commercial frontage of 1430 Dundas Street West for 7.46 square metres and on Gladstone Avenue flankage for 36.15 square meters which would accommodate approximately 44 patrons in total.

A 14 day public notice was posted to inform the neighbourhood that an application has been submitted to seek permission to establish a boulevard café. The public notice was posted from November 10, 2015 to November 23, 2015, to determine neighbourhood support.

An objection letter to the public posting was received by Municipal Licensing & Standards.

Boulevard cafes are governed by the criteria set out in Chapter 313-36 of the former City of Toronto Municipal Code. As stated in the Municipal Code, “where the Commissioner receives one or more letters of objection in response to the boulevard café application,” the Commissioner shall refuse the application.

The former City of Toronto Municipal Code Chapter 313-36 B (4) also requires a public poll of owners and tenants within 120 metres of the proposed café on a residential flank.

A poll dated December 7, 2015 with the last date for filing a response being January 5, 2016 was conducted by the City Clerk's Office, Elections and Registry Services for the Gladstone Avenue flankage, in English and Portuguese, between the premises 247-259 Gladstone Avenue, 242-248 Gladstone Avenue and 1434 Dundas Street West, to determine neighbourhood support.

The results of the poll received from the City Clerk's Office, Election and Registry Services indicate that the majority of the ballots received did not meet the minimum response rate. The provisions of Municipal Code Chapter 190 indicate that if the minimum response is not met, the application must be refused.

A site inspection conducted on November 10, 2015 revealed that the boulevard café area is located within 20.2 metres from a residential zone. The required clearance from a residential zone for cafes located on a residential flank is 25 metres.

**ISSUE BACKGROUND**

On November 27, 2015, a refusal letter was sent to the business owner representing 2452864 Ontario Inc., operating as Loveless advising the applicant that an objection letter to the 14 day public posting was received.

Furthermore, on January 8, 2015, a second refusal letter was sent to the business owner representing 2452864 Ontario Inc., operating as Loveless advising the applicant that the results of the poll received from Election and Registry Services did not meet the minimum response rate therefore the application must be refused.

A letter dated December 9, 2015 was received by Municipal Licensing & Standards from the business owner representing 2452864 Ontario Inc., operating as Loveless to appeal the decision of the denial for a boulevard café.
COMMENTS

Boulevard cafes are governed by the criteria set out in Chapter 313 of the former City of Toronto Municipal Code. As stated in the Municipal Code, “where the Commissioner receives one or more letters of objection in response to the boulevard café application,” the Commissioner shall refuse the application.

When there is a negative response, re-polling for the same purpose may not take place until two years have passed from the closing date of the previous poll. As a result, no further application for boulevard café privileges at this location can be accepted until March 12, 2016, two years from the closing date of the public poll.

As the proposed café flanks a residential zone, the former City of Toronto Municipal Code Chapter 313-36 F, requires that no part of the boulevard café is less than 25 metres from a residential zone and the application be refused.

In accordance with the provisions of the former City of Toronto, Municipal Code, Chapter 313, the 2.13 metre clearance is required in order to provide a clear pathway for pedestrian’s traffic.

CONTACT

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SIGNATURE

_____________________________
Annalisa Mignardi,
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Business Licensing and Regulatory Services
Municipal Licensing and Standards

APPENDICES

1. Sketch of boulevard café
2. Photos of proposed café area